THE HON'BLE MR JUSTICE RAMESH RANGANATHAN

WRIT PETITION No.21840 of 1998

Dated 03-10-2007

Between:
M.R.Shekar.

..... PETITIONER

AND

The Industrial Tribunal-cum-Labour Court, Warangal & another.

.....RESPONDENTS

THE HON'BLE MR JUSTICE RAMESH RANGANATHAN

WRIT PETITION No.21840 of 1998

O R D E R:

Aggrieved by the award of the Industrial Tribunal-cum-Labour Court, Warangal, in I.D.No.1 of 1993 dated 01-06-1996, in holding that the petitioner-workman was not entitled for any relief and in dismissing his claim, the present writ petition is filed.

While the petitioner was conducting the bus between Warangal and Pulkurthy on 29-07-1992, the checking officials Sri S.Narayana and Sri G.M.Khan, made a surprise check at Venkatapur village, stage No.5, and, on finding certain irregularities including failure to issue tickets to passengers from whom fares were collected, obtained a statement from the petitioner-workman. The petitioner was thereafter placed under suspension on 01-08-1992 and a charge sheet was issued wherein nine charges were levelled against him including his failure to issue tickets to nine passengers who boarded the bus at Pulkurthy and alighted at Venkatapur, (stages 4 to 5), inspite of collecting the requisite fare amount of Rs.13.50 (Rs.1.50 each) at the boarding stage itself. The petitioner submitted his explanation on 17-08-1992 and an enquiry was held wherein the checking officials and the petitioner were examined. Eventually, the petitioner was removed from service on 26-11-1992. Aggrieved thereby, he invoked the jurisdiction of the Labour Court under Section 2-A(2) of the Industrial Disputes Act, 1947 (for short 'the Act').

Before the Labour Court, the petitioner contended that the Traveling Ticket Inspector (T.T.I) had demanded a bribe of Rs.100/- from him and it was because he failed to pay the said amount was

his signature obtained on a blank paper and these allegations levelled against him. He also contended that the authority, which passed the order of removal, did not have jurisdiction to do so. With regards his contention of the T.T.I. demanding a bribe, the Industrial Tribunal held that there was no evidence placed on record in this regard and that such a plea was taken by the petitioner only to cover the lapses on his part. The Tribunal observed that, at the time of check, the petitioner had refused to offer his spot explanation, had created nuisance and had instigated the passengers to beat the T.T.I. The Tribunal relied on the evidence of the driver in this regard. The petitioner's contention that the driver ought not to have been examined was rejected by the Tribunal, and it was held that the evidence of the driver, and the other statements recorded during the enquiry, showed that the petitioner had misappropriated Rs.33/-. The Tribunal also rejected the petitioner's contention that the Chief Inspector of Legal Cell, who was the incharge Depot Manager, had no power to issue the order of removal and observed that, at the relevant time, as he was exercising all the powers of the Depot Manager, and was acting as such, he had such a power. The Tribunal held that it was the primary duty of the Conductor to issue tickets to all the passengers who had boarded the bus at a particular stage and, since the petitioner had intentionally avoided issuing tickets in a meager load of 24 passengers, tickets had not been issued to nine passengers and 10 tickets worth Rs.1.50 ps. each were found missing in the ticket tray, the charges levelled against the petitioner were established. The Tribunal noted that the petitioner had completed only two years of service and it was established that he was involved in serious cash and ticket irregularities in addition to misbehaviour and, having regard to the facts and circumstances, the petitioner was not entitled to any relief as claimed by him.

It needs no emphasis that this Court, in certiorari proceedings, would not sit in appeal over findings of fact recorded by the Industrial

Tribunals/Labour Courts nor would it substitute its views for that of the Industrial Tribunal. It is only where the findings recorded are perverse or are based on no evidence, would there be any justification in interference. The Industrial Tribunal has recorded that no evidence was placed before it by the petitioner-workman in support of his self-serving testimony that the T.T.I. had demanded a bribe of Rs.100/- and his failure to pay the amount had resulted in the charges being framed. Such a conclusion arrived at by the Industrial Tribunal does not justify interference in certiorari proceedings under Article 226 of the Constitution of India. The petitioner's contention that the incharge Depot Manager did not have power was also examined and rejected by the Industrial Tribunal.

In **Karnataka State Road Transport Corporation v. B.S.Hullikatti**[1], the Supreme Court observed that it is the responsibility of bus conductor to collect correct fares from the passengers and deposit the same in the Corporation, that conductors act in a fiduciary capacity, it would be gross misconduct if knowingly they did not collect any fare or the correct amount of fare and that, in such cases, interference with the punishment of dismissal from service was a case of misplaced sympathy by the Labour Court. In **Regional Manager, Rajastan State Transport Corporation v. Ghanshyam Sharma**[2], the Supreme Court held that the proved acts amounted either to a case of dishonesty or of gross negligence and bus conductors, who by their actions or inactions cause financial loss to the Corporation, are not fit to be retained in service. In **V.Ramana v. A.P.S.R.T.C**[3], the Supreme Court held that Courts/Tribunals should not interfere unless the punishment imposed by the disciplinary authority or the appellate authority shocks the conscience of the Court/Tribunal.

Since the charge established against the petitioner includes that of failing to issue tickets after collecting the fare which, in effect,

amounts to misappropriation of public funds, I see no reason to interfere with the award of the Industrial Tribunal.

The Writ Petition fails and is, accordingly, dismissed. No order as to costs.

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03-10-2007

usd

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[1] AIR 2001 SC 930
[2] 2002(1)LLJ 234
[3] AIR 2005 SC 3417